

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CARPENTERS' DISTRICT COUNCIL)
OF GREATER ST. LOUIS AND)
VICINITY, et al.,)
)
Plaintiffs,)
)
vs.) Case No. 4:10CV02125 AGF
)
ELITE CONTRACTING AND)
MANAGEMENT, LLC,)
a Missouri limited liability company,)
)
Defendant.)

MEMORANDUM AND ORDER

This is an action under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1132, to collect delinquent fringe benefit contributions. Following the filing of Plaintiff’s Complaint, Defendant Elite Contracting and Management, LLC, failed to answer or otherwise respond. An order of default was entered on January 13, 2011, and on January 28, 2011, the Court granted Plaintiffs a default judgment in the amount of \$112,464.09. Since that date, Plaintiffs have been unable to collect the full amount of the judgment.

In an attempt to further collection efforts, Plaintiffs, pursuant to Rule 69 of the Federal Rules of Civil Procedure, gave notice of a post judgment deposition requiring the production of certain documents and Defendant’s attendance, through a designated representative, at a deposition scheduled for June 21, 2011. Defendant failed to appear for the deposition and did not produce any of the requested documents. See July 12,

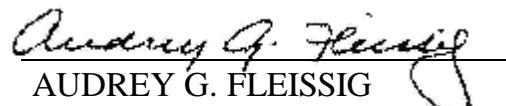
2011 Affidavit of Michael A. Evans ¶¶ 4-5. At Plaintiffs' request, on July 26, 2011, the Court then ordered Defendant to appear for a post judgment deposition and produce the requested documents at the offices of Plaintiffs' counsel on or before August 15, 2011 at 12:00 p.m. In its Order requiring Defendants's appearance at the deposition, the Court gave notice that Defendant's failure to comply with the order could result in the imposition of sanctions against Defendant, including a finding of civil contempt and the imposition of fees and costs. Defendant failed to appear for the August 15, 2011 deposition, and Plaintiffs now move for an order finding Defendant in contempt of this Court, imposing a fine and awarding them attorneys' fees and costs for the preparation of their motion.

Accordingly,

IT IS HEREBY ORDERED that a hearing is set for **Friday, December 2, 2011, at 9:30 a.m.**, in the Thomas F. Eagleton United State Courthouse, 111 South 10th Street, St. Louis, Missouri 63102 at which Defendant Elite Contracting and Management, LLC shall appear and show cause why civil contempt sanctions should not be imposed against it for failure to comply with the Court's Order of July 26, 2011. Because incarceration is a possible civil contempt sanction, Defendant Elite Contracting and Management, LLC, has the right to representation by counsel. Failure to appear for the hearing as ordered may subject the officers or principals of Defendant Elite Contracting and Management, LLC to arrest by the United States Marshals Service.

IT IS FURTHER ORDERED that Plaintiffs shall effect service of the Court's July 26, 2011 Order [Doc. No. 19], and this Order on Defendant by whatever means they

believe to be most effective, and shall promptly file a certificate of such service. Failure to show adequate evidence of prompt service may result in the continuation or cancellation of the contempt hearing.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 31st day of October, 2011.